

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS**

LAUREN WELCH,)
)
Plaintiff,)
)
vs.) Law No.: 3:13-cv-00254-MJR-SCW
)
ZULFI, INC. d/b/a SUBWAY; and)
THE COCA-COLA COMPANY,)
)
Defendants.)

**DEFENDANT THE COCA-COLA COMPANY'S MOTION FOR GOOD FAITH FINDING OF
SETTLEMENT AND DISMISSAL**

Now Comes Defendant THE COCA-COLA COMPANY, by its attorneys, Heyl, Royster, Voelker & Allen, and in its Motion for Good Faith Finding of Settlement and Dismissal, states as follows:

1. The above-referenced case involves a claim by the Plaintiff that on February 10, 2011, while she was a customer at a Subway restaurant in Granite City owned and operated by Defendant Zulfi, LLC, she was struck in the forehead by a falling ice bin lid from either the top of the soda dispenser or ice maker. Plaintiff alleged that The Coca-Cola Company negligently maintained the soda dispenser and caused or contributed to the Plaintiff's injuries.

2. Plaintiff has incurred approximately \$109,000.00 in medical expenses, which includes surgical replacement of a cervical disc. The medical bills are part of the Plaintiff's claims for damages, in addition to lost wages and pain and suffering.

3. The Coca-Cola Company has denied, and continues to deny, that it is legally liable to the Plaintiff.

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4. On December 13, 2013, Magistrate Judge Williams conducted a settlement conference which resulted in the resolution of the Plaintiff's claims against The Coca-Cola Company. The Plaintiff's claims against Defendant Zulfi, LLC were not resolved.

5. Plaintiff and The Coca-Cola Company have agreed to a confidential settlement, the terms of which are known by Magistrate Williams. The parties' agreement was memorialized on the record. A copy of the proposed Order in this case is attached as Exhibit A.

6. The Joint Tortfeasor's Contribution Act, 740 ILCS §100/2 provides as follows:

(c) When a release...is given in good faith to one or more persons liable in tort arising out of the same injury or the same wrongful death, it does not discharge any of the other tortfeasors from liability for the injury or wrongful death unless its terms so provide but it reduces the recovery on any claim against the others to the extent of any amount stated in the release or others to the extent of any amount stated in the release...or in the amount of the consideration actually paid for it, whichever is greater.

(d) The tortfeasor who settles with a claimant pursuant to paragraph (c) is discharged from all liability for any contribution to any other tortfeasor.

7. Plaintiff and The Coca-Cola Company have settled in good faith the claims against The Coca-Cola Company based on allegations of the latter's negligence. Thus, pursuant to the above statute, the Plaintiff's claims against The Coca-Cola Company should be dismissed with prejudice.

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WHEREFORE, Defendant THE COCA-COLA COMPANY prays that this Court enter an Order as follows:

- (a) Finding that the settlement between Plaintiff and The Coca-Cola Company is in good faith in accordance with the provision of the Illinois Contribution Among Joint Tortfeasor's Act;
- (b) That the Plaintiff's claims against The Coca-Cola Company be dismissed with prejudice.

THE COCA-COLA COMPANY, Defendant

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PROOF OF SERVICE

The undersigned certifies that on **January 20, 2014**, I electronically filed the foregoing ***Motion for Good Faith Finding of Settlement and Dismissal*** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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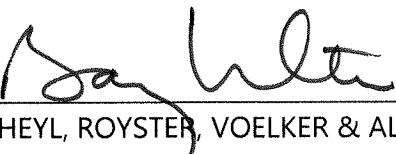
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